



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.co.la.ca.us>

DAVID E. JANSSEN
Chief Administrative Officer

September 29, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE BRATHWAITE BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

**MOTION TO OPPOSE H.R. 2671, THE CLEAR LAW ENFORCEMENT FOR
CRIMINAL ALIEN REMOVAL ACT (ITEM NO. 83-A, SUPPLEMENTAL AGENDA OF
SEPTEMBER 30, 2003)**

Item No. 83-A on the September 30, 2003 Agenda is a motion by Supervisor Molina that the Board oppose H.R. 2671 (Norwood, R-GA), the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act, direct our Washington advocates to oppose the bill, and direct the Sheriff and the Chief Administrative Office to report back in 30 days on its potential fiscal impact on the County budget and on public safety and the criminal justice system. **The bill contains some provisions that are consistent with County policy, and others for which there are no County policies, and, therefore, a position on the bill is a matter of Board policy determination.**

The CLEAR Act seeks to clarify that state and local law enforcement officers are authorized to help enforce immigration laws and to provide the resources to address the criminal alien problem. The bill:

- Clarifies that state and local law enforcement officers are fully authorized to investigate, apprehend, detain, or remove aliens in enforcing immigration laws;
- Requires the Departments of Justice (DOJ) or Homeland Security (DHS) to make training on the enforcement of immigration laws available to state and local law enforcement officers;
- Provides immunity to state and local law enforcement officers and agencies from liability arising from the enforcement of Federal immigration laws;
- Requires a state and local government to enact a statute authorizing its law enforcement officers to enforce immigration laws in the course of carrying out the officer's law enforcement duties within two years of the bill's enactment and to have a policy of reporting information on apprehended illegal aliens to the DOJ

and DHS as conditions for receipt of State Criminal Alien Assistance Program (SCAAP) funds;

- Requires the Attorney General to take into custody undocumented criminal aliens or reimburse states and localities for their incarceration costs, financed by nonimmigrant visa and adjustment of status fees that shall be set at levels sufficient to pay the full costs of incarcerating criminal aliens, enforcing immigration violations, and processing visas;
- Increases civil penalties for immigration law violations and provides that a state or local law enforcement agency shall receive one-half of any penalties or assets collected as a result of its apprehension of a violator;
- Authorizes states and localities to submit claims against the Federal government for failing to cooperate in enforcing immigration laws and to receive revenue from fines that will be imposed on Federal agencies that fail to cooperate;
- Increases the authorized SCAAP funding level to \$1 billion a year; and
- Authorizes \$1 billion a year in grants to aid local law enforcement agencies which have the authority, policy, and practice to enforce immigration laws in the course of carrying out its law enforcement duties.

A provision of H.R. 2671, Section 107, if enacted, would require the Attorney General to take into custody undocumented criminal aliens or reimburse the County for its costs of incarceration, which would significantly reduce the County's unreimbursed undocumented criminal alien jail costs. Unlike SCAAP, such reimbursement would not be subject to available annual appropriations, and would cover all undocumented criminal aliens since its scope is not limited only to those convicted of a felony or two or more misdemeanors. Section 107 would not require the County to enact a statute authorizing its law enforcement officers to enforce immigration laws in the course of carrying out their law enforcement duties as a condition for receiving Federal reimbursement.

H.R. 2671 would require state and local governments to enact a statute authorizing its law enforcement officers to enforce immigration laws and to report information on apprehended illegal aliens as conditions for receipt of SCAAP funding. In addition, in order to benefit from the bill's other new funding, such as the \$1 billion a year in grants to assist in the enforcement of immigration laws, the Sheriff must have the authority to, and have in effect the policy and practice to, enforce immigration laws in the course of carrying out its law enforcement duties.

There are no existing County policies relating to whether state and local law enforcement officers should be authorized to enforce immigration laws in the course of carrying out their law enforcement duties, or whether SCAAP reimbursement should be contingent on a state or locality granting them such authority. Based on policies included in the Federal Agenda adopted by your Board on February 4, 2003, to reduce the County's criminal justice costs associated with criminal aliens, such as by providing increased Federal reimbursement of County costs, the County would be supportive of the bill's provision which would require the Attorney General to take into custody undocumented criminal aliens or reimburse the County for its costs of jailing them. The use of nonimmigrant visa and adjustment of status fee revenues to finance such reimbursement also is consistent with County policy contained in the Federal Agenda to support using Section 245(i) adjustment of status fee revenues to reimburse criminal alien costs.

The County, to date, has not advocated any position on the bill. Our Washington Advocates advise that there is very little chance that the bill will be enacted due to irreconcilable differences. Opponents believe that immigrants will be afraid to report crimes to law enforcement if contact with the police could result in deportation. The proponents of H.R. 2671 believe that state and local governments should not expect the Federal government to reimburse their criminal alien costs, such as through SCAAP, unless they are willing to cooperate in enforcing immigration laws.

The CLEAR Act (H.R. 2671) was introduced on July 9, 2003 and referred to the House Judiciary Committee, which has not taken any action on the bill. The Committee's immigration subcommittee has scheduled an informational hearing on the bill for October 1, 2003.

DEJ:GK
MAL:MT:ib

c: Executive Officer, Board of Supervisors
County Counsel
Sheriff